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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/558,713      04/26/00      JONES

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PM82/0522

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EXAMINER
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LOUIS JACQUES, J
ART UNIT      PAPER NUMBER

3661  
DATE MAILED:

05/22/01

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	<b>Application No.</b> 09/558,713	<b>Applicant(s)</b> JONES, MARTIN KELLY	
	<b>Examiner</b> Jacques H. Louis-Jacques	<b>Art Unit</b> 3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 April 2000.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

- |   |  |
|---|--|
| 15) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 17) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3</u> . | 20) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of U.S. Patent No. 5,623,260. Although the conflicting claims are not identical, they are not patentably distinct from each other because the a "passenger" used in the above-mentioned plays the same role as the "user" recited in the present application. Also, the "telephone" recited in the above mentioned patent is a sort of "communication device" as recited in the claims of the present application. Therefore, it would have been obvious to one skilled in the art at the time of the invention to use a "telephone" as a "communication device" because such means of communication will enable the user or passenger communicate with the system.

3. Claims 1-18 are also rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-80 of U.S. Patent No. 5,668,543. Although the conflicting claims are not identical, they are not patentably distinct from each other because the present application and the above-mentioned patent claim the same subject matter. Although

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the claimed limitations are not identically recited, it would have been obvious to one skilled in the art to be motivated to modify the claims of the above-mentioned patent because such modification will enable the user to specifically set the notification time period, thereby providing more convenience to the user.

4. Claims 1-18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 5,657,010. Although the conflicting claims are not identical, they are not patentably distinct from each other because the mere fact of reciting the claimed limitations in different format does not make the claims of the present application patentably distinct over the claims of the above-mentioned patent.

5. Claims 1, 4, 7, 9-1, 13-18 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 and 23-49 of copending Application No. 08/852,119. Although the conflicting claims are not identical, they are not patentably distinct from each other because the mere fact of reciting the claimed limitations (e.g. permitting said user to preset a time ...) in the dependent claims does not make the claims of the present application patentably distinct over the claims of the above-mentioned patent.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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5,450,613	Takahara et al	Sep. 1995
5,666,647	Maine	Sep. 1997
5,794,731	Koreeda et al	Jul. 1998

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacques H. Louis-Jacques whose telephone number is (703) 305-9757. The examiner can normally be reached on M-Th, 8:30 AM - 5:00 PM (Eastern Time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William A. Cuchlinski can be reached on (703) 308-3873. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1111.

Jacques H. Louis-Jacques  
Primary Examiner  
Art Unit 3661

/jlj  
May 18, 2001.

*Jacques H. Louis-Jacques*  
JACQUES H. LOUIS-JACQUES  
PRIMARY EXAMINER